

VIACOM MEMO

TO: Bob Baldish
Eric Doctorow
Rob Friedman
Paul Heimbach
Anat Levy
Steve Madoff
Rebecca Prentice

FROM: Tom Polgar

DATE: April 18, 1997

RE: Anti-Circumvention Legislation -
CEMA Torpedoes Ongoing Negotiations

*DVD legislation
file*

At our meeting yesterday, we agreed that acceptable anti-circumvention legislation was a necessary component of any agreement to ensure content support for the DVD platform.

At the same time, representatives from various copyright interests were having the latest in a series of meetings with the consumer electronic companies to discuss an anti-circumvention compromise. After nearly three weeks of negotiations, CEMA took five steps backwards yesterday. They announced that we had until October, 1998 to work out an agreement on anti-circumvention legislation and laid out a position that they knew that both content interests and the computer companies would find totally unacceptable. Specifically, they stated CEMA would only agree to legislation:

- which specifically addressed DVD;
- included the encoding rules MPAA agreed to last March (no copy controls on broadcast or basic cable television, etc.) and had encoding rules for audio works;
- did not prohibit components of otherwise lawful products; and
- did not prohibit any device or product which had any legal use (which, in their minds, would also include circumvention to make fair use of a work).

It seems clear from both the October, 1998 time table and the specific points (the first three of which had not come up previously in the last three weeks) that CEMA is attempting to avoid any agreement on an anti-circumvention bill. That raises the question as to whether the consumer electronics companies now believe they can persuade the studios to help launch DVD without an anti-circumvention agreement.

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MPAA, accordingly, will have to decide how to proceed, and Jack Valenti has scheduled a meeting of the MPAA members' Washington representatives for next Tuesday, April 22, at 9:30 a.m. (EDT).

cc: Jonathan Dolgen
Ellen Schned
Mark Weinstein

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